

STATE OF NORTH CAROLINA

NORTH CAROLINA DEPARTMENT OF
ENVIRONMENTAL QUALITY

COUNTY OF CURRITUCK

IN THE MATTER OF)
SANDLER UTILITIES)
AT MILL RUN, LLC)
)
FOR VIOLATIONS OF COLLECTION)
SYSTEM PERMIT WQCS00290)
)

File No. DV-2020-0161

FINDINGS AND DECISIONS
AND ASSESSMENT OF
CIVIL PENALTIES

Acting pursuant to delegation provided by the Secretary of the Department of Environmental Quality (DEQ) and the Director of the Division of Water Resources (DWR), I, Jeffrey O. Poupart, Chief of the Water Quality Permitting Section make the following:

I. FINDINGS OF FACT

- A. Sandler Utilities at Mill Run, LLC (Sandler Utilities) is a limited liability company organized and existing in the State of North Carolina.
- B. Sandler Utilities owns and operates the 0.175 MGD Eagle Creek wastewater treatment facility (WWTP), located at 287 Saint Andrews Road, in Moyock, in Currituck County, North Carolina and the wastewater collection system serving the Eagle Creek Subdivision and Moyock Middle School in Moyock.
- C. Sandler Utilities was issued collection system permit WQCS00290 on May 2, 2013 (effective June 1, 2013) for the operation and maintenance of Eagle Creek Subdivision Collection System.
- D. Collection system permit WQCS00290, describing the collection system as it existed at the time of its issuance, states in part, that the permit grants permission for “operation and maintenance of a wastewater collection system consisting of, at the time of permit issuance, approximately 4.8 miles of vacuum sewer, approximately 0.01 miles of pressure sewer, 217 simplex pump stations that discharge to a pressure sewer and serve a single building, 1 duplex pump station, and all associated piping, valves, and appurtenances required to make a complete and operational wastewater collection system to serve Sandler Utilities at Mill Run, LLC and any deemed permitted satellite communities.” Wastewater is conveyed from the collection system to the Eagle Creek WWTP for treatment and disposal as authorized by non-discharge permit WQ0014306.
- E. Part I, Section 2. of collection system permit WQCS00290 states, in part: “The wastewater collection system shall be effectively managed, maintained and operated at all times so that there is no SSO to land or surface waters, nor any contamination of groundwater.”

- F. The Eagle Creek Subdivision Collection System operates as a vacuum sewer system. The collection system utilizes pumps to maintain a constant negative pressure (vacuum) within the sewer pipes. Domestic waste from individual homes connected to the system collects in containment vessels (commonly referred to as “pits”) serving two homes each. When the level of waste within the pit reaches a determined level, pneumatic pressure triggers the opening of a valve to the piping connected to the sewer line. The vacuum withdraws waste and wastewater from the pit into the sewer line. When the waste level within the pit drops, the valve connecting the pit to the sewer line is closed, allowing waste to again collect within the pit and maintaining the vacuum in the sewer line. Vents (often referred to as “candy canes” because of their shape) are connected to the sewage lines conveying waste from each home to the pit to facilitate removal of waste from the pit, to keep the system from drawing water from drain traps and toilets within the homes, or otherwise damage pipes when the vacuum is engaged.
- G. At approximately 6:00 p.m. on Sunday, September 27, 2020, one of the two pumps creating the vacuum within the Eagle Creek collection system failed. The second pump by itself did not provide for an adequate vacuum within the sewer lines to withdraw waste from the pits throughout the entire system. The controllers for some pit discharge valves failed under these conditions, leaving the valves in an open position, which further diminished the vacuum in the system.
- H. The failure of the vacuum pump created conditions throughout the subdivision such that waste could not be removed from many of the pits serving the homes. The pits filled with waste. In many homes, the owners experienced an inability for wastewater to flow to the sewer system, and some experienced backups of sewage into their homes and its discharge to their interiors through plumbed fixtures. At some locations, the pits and/or the vent pipes overflowed, leading to deposition of wastewater and wastewater solids onto the surface of the ground.
- I. Conditions described in Finding of Fact I. H. persisted to varying degrees within the Eagle Creek Subdivision for all or parts of fifteen (15) days. The Eagle Creek collection system failure began on September 27, 2020 and adequate service was not restored until October 11, 2020. During that time, Sandler Utilities took steps to replace the failed pump and to perform maintenance on the pits. However, during this episode the system experienced a failure of the second vacuum pump and failure of the pumps that convey wastewater from the collection system to the Eagle Creek WWTP, which further exacerbated the overall wastewater situation and prolonged the time it took to bring about complete resolution of the matter.
- J. The Eagle Creek Subdivision collection system has been the subject of past complaints for system failures that impacted users’ homes. Prior failures were primarily associated with weather events and not pump failure, but their occurrence provided emphasis regarding the need for vigilant oversight of operation and maintenance matters associated with the system.

- K. The cost to the State of the enforcement procedures in this matter totaled \$2,517.96.

Based upon the above Findings of Fact, I make the following:

II. CONCLUSIONS OF LAW

- A. Sandler Utilities is a “person” within the meaning of G.S. 143-215.6A pursuant to G.S. 143-212 (4).
- B. Collection system permit WQCS00290 is required by G.S. 143-215.1.
- C. The failures of the vacuum and sewer pump systems serving the Eagle Creek Collection System, along with their effects upon the pits serving the users of the system, resulting in SSOs to the land’s surface at a number of locations, constituted a failure to effectively manage, maintain and operate the collection system from September 27, 2020 until October 11, 2020, when adequate service was restored.
- D. Sandler Utilities violated Part I, Section 2 of collection system permit WQCS00290 on fifteen (15) occasions between September 27, 2020 and October 11, 2020 by failing to effectively manage, maintain and operate the Eagle Creek Collection System.
- E. Sandler Utilities may be assessed civil penalties in this matter pursuant to G.S. 143-215.6A(a)(2), which provides that a civil penalty of not more than twenty-five thousand dollars (\$25,000.00) per violation may be assessed against a person who is required but fails to apply for or to secure a permit required by G.S. 143-215.1, or who violates or fails to act in accordance with the terms, conditions or requirements of a permit issued pursuant to G.S. 143-215.1.
- F. The State’s enforcement costs in this matter may be assessed against Sandler Utilities pursuant to G.S. 143-215.3(a)(9).
- G. Jeffrey O. Poupart, Chief of the Water Quality Permitting Section, pursuant to delegation provided by the Secretary of the Department of Environmental Quality and the Director of the Division of Water Resources, has the authority to assess civil penalties in this matter.

Based upon the above Findings of Fact and Conclusions of Law, I make the following:

III. DECISION

Accordingly, Sandler Utilities at Mill Run, LLC is hereby assessed a civil penalty of:

\$ 60,000 For 15 of fifteen (15) violations of Part I, Section 2. of collection system permit WQCS00290 by failing to effectively manage, maintain and operate the Eagle Creek Subdivision collection system from September 27, 2020 through October 11, 2020.

\$ 60,000 TOTAL CIVIL PENALTY

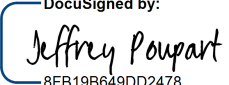
\$ 2,517.96 Enforcement Costs

\$ 62,517.96 TOTAL AMOUNT DUE

As required by G.S. 143-215.6A(c), in determining the amount of penalty, I considered the factors set out in G.S. 143B-282.1(b), which are:

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violations;
- (2) The duration and gravity of the violations;
- (3) The effect on ground or surface water quantity or quality or on air quality;
- (4) The cost of rectifying the damage;
- (5) The amount of money saved by noncompliance;
- (6) Whether the violations were committed willfully or intentionally;
- (7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and
- (8) The cost to the State of the enforcement procedures

December 10, 2020
(Date)

DocuSigned by:

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Jeffrey O. Poupart, Chief
Water Quality Permitting Section